

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 199-0018US-D
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on <u>October 9, 2008</u> Signature <u>via USPTO EFS by: /Rebecca R. Ginn/</u> Typed or printed name <u>Rebecca R. Ginn</u>		Application Number 10/670,486 Filed September 25, First Named Inventor Danny Bilby Art Unit 2143 Examiner Phuoc H. Nguyen
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided. I am the <input type="checkbox"/> applicant/inventor. _____ <u>/William M. Hubbard/</u> Signature <input type="checkbox"/> assignee of record of the entire interest. _____ See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. _____ (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. _____ Registration number <u>58,935</u> _____ Telephone number <u>832/446-2400</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. _____ Registration number if acting under 37 CFR 1.34 _____ Date <u>October 9, 2008</u> Date		
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.		
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Title : System and Method of Monitoring Video and/or Audio Conferencing
Through a Rapid-Update Website.

Inventors: Danny Bilby, et al.

Serial No: 10/670,486

Docket : 199-0018US-D

Customer : 29855

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

This is a Pre-Appeal Brief Request for Review and is being filed concurrently with a Notice of Appeal. Reconsideration of pending claims 1, 3-18, 30-35 and 37 in the above-identified application is respectfully requested based on the following remarks.

A. Claim Rejections under Section 102 to U.S. 6,317,777 ("Skarbo")

The Examiner has made a clear error in rejecting claims 1, 3-18, 30-35 and 37 under 35 U.S.C. 102 as allegedly being anticipated by U.S. Patent No. 6,317,777 to Skarbo et al. ("Skarbo"). Final Office Action dated 12 June 2008 at pgs 4-5.

Claim 1

The Examiner's rejection of claim 1 over Skarbo is a clear error because Skarbo does not teach every element of the rejected claims. For example, claim 1 recites "a server script running on the web server" and requires that the server script (1) request, and receive in response to the request, data information from a data information source, (2) generate a client script, (3) download the client script to the client computer device, and (4) run in a loop, and for each run of the loop, send requests for data information to the data information source.

The Examiner submits that Skarbo discloses a server script operative to request, and receive in response to the request, data information from a data information source and generate a client script based, at least in part, on the data information, and download the client script to the client computer device, referencing col. 3, ll. 30-55, col. 6, ll. 37-44, and col. 7, ll. 25-35. But the Examiner has failed to provide even a minimal explanation of how these cited portions teach that the purported server script 120 generates a client script and downloads the client script to the client computer, both of which are required by the claim. Indeed, neither the cited portions of Skarbo, nor the reference as a whole teaches these features of a server script.

Moreover, Skarbo fails to teach that the server script runs in a loop. In addressing this limitation, all that the Examiner alleges is that “the server script runs in a loop (e.g. by the third party script browser 110 in Figure 1B).” See Final Office Action dated 12 June 2008 at pg. 2. Skarbo is silent as to any type of continuously running server script because every action disclosed in Skarbo is explicitly in response to a user request or user input. In fact, even the Examiner implicitly admits this by referencing the third party script browser, which is on the *client* side (104) of the diagram. If the server script is running in response to the browser, as alleged by the Examiner, the server script is clearly not running in a continuous loop, as required by the claim.

Claim 3

Claim 3 includes the further limitation that the server script is operative to download the client script to the client computer device, every cycle of the loop, only when new data information has been received, whereby using the loop keeps an ongoing connection between the web server and the client. In rejecting claim 3, the Examiner only points to Figs. 1-2, 7-9, 5-6, and states that Fig. 1B and col. 2, l. 2- col. 3, l. 9 “somewhat explain” these features. The Examiner has not explained how these portions or any other portions of Skarbo teaches that the server script runs in a loop, or that for every cycle of the loop only downloads a client script to the client computer device when new data information has been received. Where is the client script? What

is the new data? Where is the decision whether or not to download the script to the client computer?

As stated above, there is no type of looping disclosed in Skarbo, and the section the Examiner cites to support his assertion that Skarbo discloses an ongoing connection merely discloses two options for propagating changes to word documents with no mention of keeping the connection active. First, Skarbo discloses that a ***local document*** is changed and these changes propagated. Second, Skarbo discloses that ***local windowing events*** will be captured and forwarded to other attendees. Neither of these methods add support to the assertion that the ***server loop*** keeps an ongoing connection as expressly recited in claim 3 because each of these methods react to a user request or user input.

Furthermore, Assignee submits that Sarbo fails to teach or suggest an ongoing connection because Skarbo discloses that "cookies" are used to link separate webpage download requests from the client. See Skarbo at Col. 7 In 66 to Col. 8 In. 5. This is explained in more detail in Assignee's Response to Office Action dated 14 March 2008 at pg 14.

Claim 7

Claim 7 includes the further limitation that the web browser running on the client computer device, in response to receiving a particular Universal Resource Locator, downloads a monitoring web page from the web server, the monitoring web page defining a visible pane and an invisible pane. In rejecting this claim Examiner simply stated that these elements are found in Skarbo in Figs 1-2, and 7-9 and col. 7, ll. 1-10 and 25-35, with no further explanation. When it was pointed out to the Examiner that these cited sections, and indeed the entirety of Skarbo fails to teach these limitations, the Examiner's response was "Figure 1B discloses the above alleged limitations wherein the visible pane is the pane for displaying in browser and the invisible pane is logical pane for receiving data to display as invisible."

First, Assignee is not sure what the Examiner means by this response. But even if Skarbo discloses receiving data to display as invisible (which it does not) this would

not disclose that the invisible data contains a client side script as expressly recited in claim 7. Note particularly, that because the claimed invisible data contains a client side script, there is no need to display the script. Rather, the results obtained from executing the script are displayed. The Examiner's assertion that data would be received and "displayed" invisibly would be completely nonsensical because it would serve no function. *See Also* Assignee's Response to Office Action dated 14 March 2008 at pg 15-16.

B. Summary Remarks to other claims

The Examiner has made similar remarks and assertions in rejecting the remaining pending claims as allegedly being anticipated by Skarbo. Each of the claims includes at least one limitation discussed above that is not present in Skarbo. For example, Skarbo is completely silent as to a looping server side script, maintaining an on-going connection between a web client computer and anything executing on the server, and a single web page with both a visible and invisible pane. All of these limitations have been improperly alleged to be anticipated under § 102 by Skarbo.

Because each and every claim limitation is not disclosed in the cited reference, all of these § 102 rejections are improper. Therefore, Assignee respectfully requests the Panel withdraw these rejections.

C. Conclusion

To sustain a rejection under 35 U.S.C. 102, the "identical invention must be shown in as complete detail as is contained in the claim." *Richardson b. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). In the first Office Action, the Examiner simply parroted the various claim elements and referenced various sections and Figures in the Skarbo reference where he alleged these elements were disclosed, without providing any additional explanation. Assignee pointed out to the Examiner several features of the claims that are not disclosed in Skarbo. Still, the Examiner has failed to provide any additional explanation to Assignee, other than to

again point to sections of Skarbo he originally cited to and restate that the features are "somewhat explained" by these sections. The Examiner has thus failed to present a legitimate *prima facie* case of anticipation by Skarbo. Therefore, Assignee respectfully requests the Panel reverse the Examiner's rejection and permit claims 1, 3-18, 30-35 and 37 to issue. If the Panel agrees with the Examiner that these limitations are disclosed in the Skarbo references, the Assignee respectfully requests that prosecution be reopened and that adequate explanation be provided to allow Assignee to make suitable arguments and/or amendments.

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